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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,437	08/16/2006	Bjorn Kahlen	P03315	1962
23702 7590 02/14/2008 Bausch & Lomb Incorporated One Bausch & Lomb Place Rochester, NY 14604-2701				
EXAMINER				
CHOI, WILLIAM C				
ART UNIT		PAPER NUMBER		
2873				
MAIL DATE		DELIVERY MODE		
02/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,437

Applicant(s)

KAHLEN, BJORN

Examiner

WILLIAM C. CHOI

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-11 is/are rejected.
- 7) ☒ Claim(s) 4-7 and 12-27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 0905
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Information Disclosure Statement

Receipt of the Information Disclosure Statement (IDS) with copies of the references cited therein, was received on 9/22/2005. An initialized copy of the IDS is enclosed with this office action.

Specification

Claims 4-7 and 12-27 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hohla et al (WO 01/028476 A1).

In regard to claim 1, Hohla discloses a system for acquiring data of an eye of a patient comprising a diagnosis unit for acquiring diagnosis data of the eye (page 3, line

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5 – page 4, line 2) and an iris recognition unit (page 25, last paragraph – page 26, paragraph 2; page 16, paragraph 2 – page 17, line 17) for acquiring an iris code of the eye (page 6, line 6 – page 17, line 17; page 14, paragraph 3; page 8, lines 4-10).

Regarding claim 2, Hohla discloses said system comprising processing means for determining coordinates of a pupil center of the eye (page 18, paragraph 2, Figure 6).

Regarding claim 3, Hohla discloses wherein the diagnosis data and/or the iris code and/or the center of the pupil of the eye are related to a common coordinate system (Figure 6, 148”).

In regard to claim 8, Hohla discloses a system for aligning and for tracking of an eye of a patient with reference to an ophthalmic unit for performing a diagnosis (Figure 2A, “100”) and/or treatment of the eye (Figure 2A, “102”) (page 3, line 5 – page 5, line 2, Figures 1, 2a-c, 12) comprising means for providing a previously acquired iris code of an eye (Figure 2A, “114, 120) of a patient (page 6, lines 6-14), an iris recognition unit for acquiring an iris code of the eye under investigation as a present iris code (page 14, paragraph 3; page 8, lines 4-10; page 25, last paragraph – page 26, paragraph 2; page 16, paragraph 2 – page 17, line 17), and a comparator for comparing the present iris code with a previously acquired iris code and providing a comparison result, wherein said ophthalmic unit performs said diagnosis and/or treatment of the eye when said comparison result is greater than an identification determining level (page 25, last paragraph; page 2, first paragraph; page 18, paragraph 2; page 20, paragraph 2).

Regarding claim 9, Hohla discloses wherein said comparator comprises means for performing correlation between said present iris code and said previously acquired iris code, wherein said present iris code is related to a first rotational position and said previously acquired iris code is related to a second rotational position, a modification unit for modifying the present iris code and/or the previously acquired iris code such the relative position between the first rotational position and the second rotational position is changed, and a determining unit for determining the highest correlation between said present iris code and said previously acquired iris code being modified over a predetermined range of relative rotation (page 21, paragraph 2; page 22, paragraph 2, Figures 7, 8A,B).

Regarding claim 10, Hohla discloses wherein the eye under investigation is aligned to the ophthalmic unit by said rotational shift corresponding to the highest correlation between the present iris code and the previously acquired iris code (page 21, paragraph 2; page 22, paragraph 2, Figures 7, 8A,B).

Regarding claim 11, Hohla discloses said system comprising processing means for determining coordinates of a pupil center of the eye under investigation, wherein the present coordinates of the pupil center are used in aligning and tracking the eye with reference to the ophthalmic unit (page 19, paragraph 2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM C. CHOI whose telephone number is (571)272-2324. The examiner can normally be reached on Monday-Friday from about 9:00 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William C. Choi/
Primary Examiner, Art Unit 2873
February 12, 2008